HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH: Hon'ble Shri S.R. Nayak, CJ

WRIT PETITION No. 5771 OF 2005

PETITIONERS

1. Kunj Bihari, Aged about 28 years, S/o Shri Prem Singh Gond, resident of village Kunjemura Kunjemura, P.S. Tamnar, Tah. Gharghora, Distt. Raigarh (C.G.)
2. Kanhaiya Lal, son of Panaku Ghasiya, aged about 22 years, resident of village Kunjemura Kunjemura, Tah. Gharghora, P.S. Tamnar, Distt. Raigarh (C.G.)
3. Motiram son of Sadram Kenwat, aged about 76 years resident of village Kunjemura Kunjemura, Tah. Gharghora, P.S. Tamnar, Distt. Raigarh (C.G.)
4. Yasoda, son of Shri Hirderam aged about 30 years, resident of village Kunjemura Kunjemura, Tah. Gharghora, P.S. Tamnar,Distt. Raigarh (C.G.)
5. Bulau, aged about 72 years, son of Shri Neelu, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
6. Gudul, aged about 59 years, son of Shri Samaru, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
7. Ghasiya, aged about 55 years, son of Shri Ballu Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
8. Motiram, aged about 30 years, son of Shri Laharu, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
9. Ram Sai, aged about 40 years, son of Bulau Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
10. Harihar Prasad, son of Muhayee, aged about 50 years, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
11. Tulasi Bai, aged about 30 years, daughter of Chandan, resident of village

Kunjemura Kunjemura, P.S. Tamnar, Tah. Gharghora, Distt. Raigarh (C.G.)

12. Shyamlal, son of Runga, aged about 36 years, resident of village Kunjemura Kunjemura, P.S. Tamnar,Tah. Gharghora, Distt. Raigarh (C.G.)
13. Parmeshwar, son of Budu, aged about 42 years, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
14 Chhabil, aged about 61 years, son of Shri Jhagaru Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
15 Umed, aged about 36 years, son of Shri Liladh, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
16. Sukul son of Chaitan, aged about 62 years, resident of village Kunjemura Kunjemura, Tah. Gharghora, P.S. Tamnar,Distt. Raigarh (C.G.)
17. Manohar Singh Sidar, aged about 72 years, son of Shri Janakram Gond, resident of village Kunjemura Kunjemura, P.S. Tamnar Tah. Gharghora, Distt. Raigarh (C.G.)
18. Narsingh, aged about 62 years, son of Shri Janak Gond, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
19. Jagarmati Bhagat, W/o Ikchharam, aged about 50 years, Caste - Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
20. Jairam Dhoba, S/o Dokri, Aged about 50 years, Caste - Dhoba, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
21. Shekharlal S/o Shantilal, aged about 20 years, caste - uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
22. Basti Ram S/o Chaitan, aged about 62 years, Caste - Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
23. Trilochan S/o Kiritram, Aged about 50 years, Caste - Kewat, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)

24. Bihanuram S/o Daulatram, aged about 62 years, Caste - Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
25. Raghuveer S/o Madhusudan, aged about 45 years, Caste Sodhi, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
26. Mansai S/o Gujru, Aged about 60 years Caste - Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
27. Bhuneshwar S/o Dadhu, aged about 36 years, Caste - Kewat, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
28. Jaipal S/o Mangal, aged about -34 yrs. Caste - Uraon, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
29. Santuram S/o Tejram, Aged about -40 yrs, Caste - Gond, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)
30. Ravindra S/o Ramnath, Aged about 28 yrs. Caste - Kewat, resident of village Kunjemura Kunjemura, Tah. Gharghora, Distt. Raigarh (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through : The Secretary, Department of Revenue, Dau Kalyan Singh Bhawan, Mantralaya, Raipur (C.G.)
2. The Secretary, Government of Chhattisgarh, Department of Commerce And Industry, D.K.S. Bhawan, Raipur (C.G.)
3. The Collector, District - Raigarh (C.G.)
4. The Sub Divisional Officer (Revenue) Gharghoda, District - Raigarh (C.G.)
5. Jindal Power Limited, Through : Its Managing Director, Raigarh (C.G.)

Present : Mr. Sanjay Kumar Agrawal, learned counsel for the petitioners.
Mr. Yashwant Singh, learned Govt. Advocate for respondents 1 to 4/State.
Mr. B.D.Guru, learned counsel assisting Shri Prashant Mishra, learned Sr. Advocate for respondent No.5.

ORAL ORDER
(Passed on 12th December 2005)

In this writ petition, the action of the State in invoking urgency clause under Section 17 (4) of the Land Acquisition Act, 1894 (for short 'the Act') is questioned. It was contended by the learned counsel for the petitioners that the State Government by invoking urgency clause under Section 17 (4) of the Act has sought to acquire the subject land for expansion of 5th respondent-Company for generating electric power. It was contended by the learned counsel for the petitioners quite strenuously that there was absolutely no need or urgency to invoke urgency clause.

I have carefully perused the averments made in the petition. It is not the case of the petitioners that the State-authorities have invoked urgency clause incorporated in Section 17 (4) of the Act with a malafide intention or for any extraneous considerations. If that is so, the law as settled by the Apex Court would govern the situation. The Supreme Court in ***Union of India Vs. Praveen Gupta (AIR 1997 SC 170)*** has opined that the decision of urgency is an administrative decision and a matter of subjective satisfaction, and such a satisfaction should not be interfered with by the Courts lightly. The Court went to the extent of saying that the acquiring authorities need not give any reasons in support of its subjective satisfaction. Furthermore, the Supreme Court in the case of ***Chameli Singh Vs. State of U.P. (1996) 2 SCC 549*** has opined that when the Government invokes urgency clause under Section 17 (4) of the Act, the opinion of the Government is entitled to great weight and its opinion should not be upset unless it is shown that the decision is vitiated by *malafide* or colourable exercise of power. Be that as it may, if the 5th respondent-Industry has requisitioned the State to acquire the subject land

for its expansion activities so as to generate power, a part of which is required to be made available to the public at large, it cannot be said that there is no element of urgency in the acquisition. In that view of the matter, I do not find any merit in the writ petition and it is accordingly dismissed. There shall be no order as to costs.

Sd/-
Chief Justice